REMARKS

Claims 1-62 and 79-125 are pending in the application. Claims 11, 12, 19-40, 42-62, and 82-123 have been amended. Support for these amendments can be found throughout the specification and serve only to more particularly point out and distinctly claim the subject matter of the present invention.

The above amendments place the application in better condition for examination. It is submitted that no new matter has been introduced by the present amendments and entry of the same is respectfully requested. By the amendments, Applicant does not acquiesce to the propriety of any of the Examiner's prior rejections and does not disclaim any subject matter to which Applicant is entitled. *Cf. Warner Jenkinson Co. v. Hilton-Davis Chem. Co.*, 41 U.S.P.Q.2d 1865 (U.S. 1997).

Applicant further acknowledges the Examiner's statement that the restriction of claims 1-62 and 79-125 is proper and final. Office Action of 25 March 2005 at page 5.

I. REJECTION UNDER DOUBLE PATENTING

A. CONFLICT UNDER 37 C.F.R. § 1.78

The Examiner has noted claims 1-38 and 41-60 as conflicting under 37 C.F.R. § 1.78(b) with claims 1-58 of copending Application No. 09/716,460. *Id.* at page 2.

The Examiner has instructed the canceling of the conflicting claims from all but one application or the maintenance of a clear line of demarcation between the applications to satisfy 37 C.F.R. § 1.78(b). Without acquiescing to the propriety of the Examiner's remarks, Applicant has expressly abandoned Application No. 09/716,460 under 37 C.F.R. § 1.138 in favor of continuing Application No. 09/779,831. Attached is a declaration of express abandonment (Form PTO/SB/24) of Application No. 09/716,460 under 37 C.F.R. § 1.138. Accordingly, this remark has been rendered moot.

B. REJECTION UNDER 35 U.S.C. § 101

The Examiner has provisionally rejected claims 1-38, 41-60, and 79-125 under statutory (35 U.S.C. § 101) double patenting as being unpatentable over claims 1-58 of copending Application No. 09/716,460. *Id.* at page 2.

The Examiner has instructed that canceling or amending the conflicting claims so they are no longer coextensive in scope is necessary to overcome an actual or provisional rejection based on statutory (35 U.S.C. § 101) double patenting ground. Without acquiescing to the propriety of the Examiner's rejection, Applicant has expressly abandoned Application No. 09/716,460 under 37 C.F.R. § 1.138 in favor of continuing Application No. 09/779,831. Attached is a copy of the declaration of express abandonment (Form PTO/SB/24) filed in Application No. 09/716,460 under 37 C.F.R. § 1.138 on even date herewith. Accordingly, this rejection has been rendered moot.

II. REJECTION UNDER 35 U.S.C. § 112, ¶2

Claims 11, 12, 19-40, 42-62, and 82-125 are rejected under 35 U.S.C. § 112, ¶2 "as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention." Office Action of 25 March 2005 at page 3. Applicant respectfully traverses.

The Examiner asserted that claims 11 and 12 are indefinite because they are dependent on claim 10, which indicates "comprising one or more component." *Id.* The Examiner suggested that production type in claims 11 and 12 is not positively recited and therefore indefinite. *Id.* Additionally, the Examiner alleges that claims 19-40, 42-62, and 82-125 are similarly indefinite.

Without acquiescing to the propriety of this rejection, and solely to expedite prosecution of the present application, Applicant has amended claim 11 to positively recite production type. Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw this rejection of claim 11.

Claims 12, 19-40, 42-62, and 82-122 have been similarly amended to clarify the alleged indefiniteness. Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw this rejection of claims 12, 19-40, 42-62, and 82-122.

Finally, Applicant fails to see how claims 123-125 are indefinite in that these claims do not have language that was found to be objectionable by the Examiner with regard to the other claims in the present rejection. Claim 123 is an independent claim that states:

> "A method of accessing rich-media component information from a database comprising: storing said rich-media component information in said database; retrieving said rich-media component information from said database; and denoting

said rich-media component information by a unique identifier mapped to said component."

Applicant submits that the subject matter of this claim is particularly pointed out and distinctly claimed. Similarly, dependent claims 124 and 125 are definite. Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw this rejection of claims 123-125.

Based on the foregoing amendments, Applicant respectfully requests that the Examiner reconsider and withdraw the present rejection of claims 11, 12, 19-40, 42-62, and 82-125 under 35 U.S.C. § 112, ¶2.

III. REJECTION UNDER 35 U.S.C. § 102(e)

The Examiner has rejected claims 1-19, 41, and 79-81 under 35 U.S.C. §102(e) as anticipated by United States Patent No. 6,769,127 ("Bonomi"). Office Action of 25 March 2005 at page 3. Applicant respectfully traverses.

In order to support an anticipation rejection under 35 U.S.C. § 102(e), the Examiner must show that each and every element of the claimed invention is shown identically in a single reference. *In re Bond*, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990) citing *Diversitech Corp. v. Century Steps, Inc.*, 7 U.S.P.Q.2d 1315, 1317 (Fed. Cir. 1988). Further, the elements of the prior art must be arranged as in the claims under review. *Id.*, citing *Lindemann Maschinenfabrik v. American Hoist & Derrick Co.*, 221 U.S.P.Q. 481, 485 (Fed. Cir. 1984). Thus, the references the Examiner asserts as prior art must contain all of the elements contemplated by the present invention in the same order and arrangement as presently claimed. As explained below, the Bonomi reference does not contain each and every element of the claimed invention as they presently appear. Therefore, the invention as presently claimed is novel and inventive over the cited reference.

The Examiner asserted that Bonomi anticipates the present invention because it contemplates designing and creating rich-media application over the Internet comprising: accessing a host website via the Internet; examining available products on said host website; and constructing said rich-media application on said host website. Office Action of 25 March 2005 at page 4. Applicant respectfully submits that these steps are not taught or suggested in Bonomi whatsoever. Thus, Bonomi does not anticipate the inventive steps defined in the claims of the present application.

Specifically, as defined in independent claim 1, the present invention includes designing and creating rich-media applications over the Internet comprising: accessing a host website via the Internet; examining available products on said host website; and constructing said rich-media application on said host website. *Id.* Applicant respectfully submits that Bonomi fails to teach each and every step of independent claim 1. Specifically, Bonomi fails to teach designing and creating rich-media applications.

The Examiner asserts that col. 3, lines 53-55 of Bonomi teaches constructing a rich-media application on a host website. The Examiner is incorrect, Col. 3, lines 53-55 of Bonomi specifically state "... the media system has a flexible design that can enable subscribers to customized [sic] their program guides, services packages (including pause and record services), and the like." Bonomi merely shows that subscribers may customize the program guides, services packages, and other user options of an existing application. Nowhere does Bonomi teach or suggest the actual design or creation of an application as cited in independent claim 1. Because Bonomi does not teach these claimed steps, it does not anticipate claim 1 under 35 U.S.C. § 102(e). Applicant thus respectfully requests that the Examiner reconsider and withdraw the present rejection of claim 1 and all claims depending therefrom.

The Examiner next asserted that dependent claims 2, 4, 5, and 6 are anticipated because Bonomi teaches purchasing the ability to construct rich-media on host website. *Id.* Without acquiescing to the propriety of the Examiner's arguments, because Bonomi does not anticipate the methods defined in independent claim 1, dependent claims 2, 4, 5, and 6 are also are not anticipated. The same is true of dependent claims 3, 7, 8, and 9-16. Applicant thus respectfully requests that the Examiner reconsider and withdraw these 35 U.S.C. § 102(e) rejections.

Applicant respectfully notes that dependent claims 2, 4, 5, and 6 are not anticipated because Bonomi does not anticipate the methods defined in independent claim 1. However, turning to the specific arguments made by the Examiner, Applicant respectfully points out that the Examiner incorrectly interprets claims 2, 4, 5, and 6 as claiming purchasing the ability to construct rich-media on a host website. Office Action of 25 March 2005 at page 4. Applicant respectfully points out that claims 2, 4, 5, and 6 relate to purchasing the ability to construct rich-media applications on a host website. Specifically, the Examiner's citation of Bonomi at col. 3, lines 7-10 relates only to setting pricing options for subscribers to access media content. Nowhere in Bonomi is purchasing the ability to construct rich-media applications on a website taught or suggested. Furthermore, the Examiner's citation to

Bonomi at col. 9, lines 35-40 relates only to charging fees for storing data on a web space. Applicant's claim is to allow subscribers to purchase the ability to construct rich-media applications on a web site, intrinsically different than the mere storage of data. Because Bonomi does not teach these claimed steps, it does not anticipate claims 2, 4, 5, and 6 under 35 U.S.C. § 102(e).

Applicant respectfully notes that dependent claim 3 is not anticipated because Bonomi does not anticipate the methods defined in independent claim 1. However, turning to the specific arguments made by the Examiner, Applicant respectfully points out that Bonomi does not teach or suggest the element of claim 3 whatsoever. Specifically, the Examiner makes an invalid comparison between what is defined in claim 3 and what is shown in Bonomi. Claim 3 defines modifying the rich-media application on a host website. The Examiner's citation to Bonomi at col. 7, lines 1-2 relates only a conversion of a binary file from one format (MPEG) to another. Applicant submits that one skilled in the art at the relevant time would recognize that format conversion is not equivalent to the modification of an application. Modification of a rich-media application on a host website is not taught or suggested anywhere in Bonomi. Because Bonomi does not teach this claimed step, it does not anticipate claims 3 under 35 U.S.C. § 102(e).

Applicant respectfully notes that dependent claims 9-16 are not anticipated because Bonomi does not anticipate the methods defined in independent claim 1. However, turning to the specific arguments made by the Examiner, Applicant respectfully point outs that Bonomi does not teach or suggest claims 9-16 whatsoever. Specifically, the Examiner states that claims 9-16 are taught by Bonomi because it teaches selecting a movie filed component and uploading component. Office Action of 25 March 2005 at page 4. Applicant respectfully notes that claim 9 further relates to creating said rich-media application with said components. Bonomi relates only to the selection and uploading of a movie file component. Merely selecting and uploading a movie file component does not teach the creation of a rich-media application using said component and Bonomi does not teach or suggest the essential element of creating a rich-media application. Because Bonomi does not teach this claimed step, it does not anticipate claims 9-16 under 35 U.S.C. § 102(e).

The Examiner also asserted that Bonomi anticipates the present invention because it contemplates creating user accounts, accessing user accounts, and viewing available options for creating rich-media application. *Id.* Applicant respectfully submits that these steps also are not taught or suggested by Bonomi. Thus, Bonomi does not anticipate the claims of the present application.

As defined in independent claim 17, the present invention includes a method for users to create and maintain a rich-media application on said host website via the Internet comprising: creating user accounts, accessing user account, and viewing available option for creating rich-media application. Applicant respectfully submits that Bonomi does not teach or suggest the creation of a rich-media application whatsoever. The Examiner cites Bonomi at fig. 11B, which merely shows the administration of users on an existing application. The required element of creating a rich-media application is not taught or suggested. Because Bonomi does not teach this claimed element, it does not anticipate claim 17 under 35 U.S.C. § 102(e). Applicant thus respectfully requests that the Examiner reconsider and withdraw the present rejection.

The Examiner also asserted that dependent claims 18, 19, and 41 are similarly anticipated. *Id.* Without acquiescing to the propriety of the Examiner's arguments, because Bonomi does not anticipate the methods defined in independent claim 17, dependent claims 18, 19, and 41 are also are not anticipated. Applicant thus respectfully requests that the Examiner reconsider and withdraw these 35 U.S.C. § 102(e) rejections.

As defined in independent claim 79, the present invention includes a computer process allowing a user to interactively create and maintain a rich-media application on a host website via the Internet comprising: allowing the creation of a user account, allowing access to a user account, and displaying available option for creating rich-media application. Applicant respectfully submits that Bonomi does not teach or suggest the creation of a rich-media application whatsoever. The Examiner cites Bonomi at fig. 11B, which merely shows the administration of users on an existing application. The required element of creating a rich-media application is not taught or suggested. Because Bonomi does not teach this required element, it does not anticipate claim 79 under 35 U.S.C. § 102(e). Applicant thus respectfully requests that the Examiner reconsider and withdraw the present rejection.

The Examiner also asserted that dependent claims 80 and 81 are similarly anticipated. *Id.* Without acquiescing to the propriety of the Examiner's arguments, because Bonomi does not anticipate the methods defined in independent claim 79, dependent claims 80 and 81 are also are not anticipated. Applicant thus respectfully requests that the Examiner reconsider and withdraw these 35 U.S.C. § 102(e) rejections.

Based on the foregoing discussion, claims 1-19, 41, and 79-81 are not anticipated by Bonomi. Applicant thus respectfully requests reconsideration and withdrawal of these rejections under 35 U.S.C. § 102(e).

CONCLUSION

Applicant has properly and fully addressed each of the Examiner's grounds for rejection. Applicant submits that the present application is now in condition for allowance. If the Examiner has any questions or believes further discussion will aid examination and advance prosecution of the application, a telephone call to the undersigned is invited.

If there are any additional fees due in connection with the filing of this amendment, please charge the fees to undersigned's Deposit Account No. 50-1067. If any extensions or fees are not accounted for, such extension is requested and the associated fee should be charged to deposit account no 50-1067.

Respectfully submitted,

23 June 2005

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